

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SHANNEN SYDNOR,

Plaintiff,

-v-

KILOLO KIJAKAZI, Acting Commissioner of the Social
Security Administration,

Defendant.
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23 Civ. 3603 (JPC)

ORDER

JOHN P. CRONAN, United States District Judge:


The Court is in receipt of Plaintiff’s motion for fees under 42 U.S.C. § 406(b), Dkts. 18-19, and the Government’s response, Dkt. 24. As Plaintiff’s motion identifies, *see* Dkt. 19 at 3, consideration of a fees award under § 406(b) is premature at present given that it is unknown whether any portion of the 25% of withheld payments will remain after the Social Security Administration determines the award for fees under § 406(a). *See Culbertson v. Berryhill*, 586 U.S. 53, 61 (2019). The Second Circuit has held that “district courts are empowered to enlarge th[e] filing period [for a § 406(b) application] where circumstances warrant” and that a district court has “discretion to alter a specified filing time” for such an application. *Sinkler v. Berryhill*, 932 F.3d 83, 89-90 (2d Cir. 2019). Given the circumstances here, the Court extends the deadline for Plaintiff to file an application for fees under § 406(b), as any fee award may depend on the amount (if any) of funds remaining following the determination of fees under § 406(a).

Within seven days of the Social Security Administration’s decision regarding the § 406(a) award, the parties shall file a joint letter advising the Court of that decision and of the amount, if any, of withheld funds remaining for a § 406(b) award. Plaintiff must file any motion for fees pursuant to § 406(b) within fourteen days of the Social Security Administration’s determination

concerning the § 406(a) award. The Court denies Plaintiff's present motion for fees as moot and without prejudice to filing a new motion for fees by the deadline set forth above. The Clerk of Court is respectfully directed to close Docket Number 18.

SO ORDERED.

Dated: March 28, 2025
New York, New York



JOHN P. CRONAN
United States District Judge